

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK and STATE OF
CONNECTICUT,

Plaintiffs,

-against-

ANDREW WHEELER, in his official
capacity as Acting Administrator of the
United States Environmental Protection Agency, and
the UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendants.
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JUDGMENT


It is hereby ORDERED, ADJUDGED AND DECREED:

That for the reasons stated in the Court's Order dated June 12, 2018, and the Opinion and Order dated June 12, 2018, the Court GRANTS Plaintiffs' Motion for Summary Judgment. In the June 12 Order, the Court declared that as of June 12, 2018, "EPA [was] in violation of section 110(c)(1) of the Clean Air Act, 42 U.S.C. § 7410(c)(1), for failing to timely perform its mandatory duty to promulgate a federal implementation plan (FIP) for each of Illinois, Michigan, Pennsylvania, Virginia and West Virginia that fully addresses each state's obligations under 42 U.S.C. § 7410(a)(2)(D)(i)(I), the 'Good Neighbor Provision,' with regard to the 2008 ozone national ambient air quality standards (NAAQS)."

In accordance with 42 U.S.C. § 7604(d) and paragraph 5 of the June 12, 2018 Order, the Court AWARDS plaintiffs their costs of litigation, including reasonable attorneys' fees, including costs and fees incurred subsequent to entry of the June 12, 2018 Order, in an amount to be determined as follows: The parties will submit within 90 days of the date of entry of this judgment either: (1) a joint stipulated order to be entered by the Court setting forth the amount of fees to be awarded, or (2) a status update to the Court. Should the parties be unable to come to agreement on the amount of fees, they will notify the Court in the status update, and then plaintiffs will have 30 days from the expiration of the 90-day period to submit their fee application to the Court. In the event of a lapse in appropriations to fund the United States Department of Justice and/or the United States Environmental Protection Agency resulting in furlough of the staff handling this case prior to the expiration of the 90-day period, that 90-day period will be automatically extended by a time period equal to the duration of any such lapse in appropriations.

The Court will hold open the case until the entry of the stipulated order on fees or, as necessary and appropriate, any other such order on fees, as contemplated by this judgment.

Dated: New York, New York
February 21, 2019

BY:  G. Kolet
U.S.D.S.